IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

RFA No. 138 of 2000

Reserved on : 27th June, 2007
Date of Decision: 26th July, 2007

H.P.S.E.B. and others	Appellants
Versus	
Smt.Meena Devi and others	Respondents

Coram

The Hon'ble Mr. Justice Sanjay Karol,J.

Whether approved for reporting[1]? No

For the appellants: Mr.Shrawan Dogra, Advocate.

For the respondents: None.

Sanjay Karol, J.

By way of present appeal, the appellants have assailed the judgment and decree dated 15th March, 2000, passed by District Judge, Kullu, in Civil Suit No. 6 of 1998, titled as Meena Devi & others vs. HPSEB and others.

For the sake of convenience, the parties are referred as plaintiffs/respondents and defendants/appellants.

Plaintiffs have filed the suit, inter alia, claiming Rs.4 lacs as compensation on account of death of Shri Hari Singh, husband of plaintiff No.1 and father of plaintiff No.2, aged 8 years and plaintiff No. 3, aged 6 years, who died due to electrocution by coming in contact with electric wires on 21st August, 1997.

In the plaint, inter alia, it is contended that Hari Singh working as waiter cum cook at Hotel Lama Yuru, Village Kalath, Tehsil and District Kullu, came in contact with high volt age wire, which was passing

---

Whether the reporters of Local Papers are allowed to see the Judgment?

at a distance of one foot from the wall of the hotel, resulting into electrocution and death of deceased on the spot. The electric wires were tilted towards the hotel and were not maintained in accordance with law resulting into the unfortunate incident. The deceased was having an income of Rs. 2000/- per month and was contributing towards the maintenance of the family. The plaintiffs are destitute having no other source of income.

In the written statement, the defendants have inter alia, denied any negligence in maintaining the electricity wire or pole. However, the fact that high tension power line was installed has been admitted.

On the pleadings of the parties, the following issues were framed by the trial Court:-

"1. Whether Hari Singh died as a result of electrocution due to the negligence of the respondents in maintaining the electric wire, as alleged? OPP
2. Whether the petitioners are entitled to negligence compensation on account of death of Hari Singh? If so, on what account and from whom? OPP
3. Whether the suit has not been properly instituted and the same is not competent in the present form? OPD
4. Whether the suit has not been properly valued for the purpose of court fee and jurisdiction? OPD
5. Whether the defendants can take the objection that the plaintiffs are not paupers? If so, its effect? OPD
6. Whether the plaintiffs have no locus standi to file the suit and cause of action for filing the suit? OPD
7. Whether the employer of the deceased is a necessary party and the suit is bad for non-joinder of the employer as a party, as alleged? OPD
8. Relief."

During trial, plaintiffs examined five witnesses, whereas defendants examined only one witness and the plaintiffs got exhibited

documents, i.e. Ex.PA, copy of post mortem report; Ex.PW4/A copy of Rapat and Ex.PW-4/B, copy of Rapat.

All the issues were decided in favour of the plaintiffs, whereas issues No.6 and 7 were not pressed by the defendants.

I have heard the learned counsel for the appellants and have gone through the record very carefully.

From the perusal of the statements, the Court below has come to a definite finding that high tension electric wire was passing near the hotel where the deceased was working. At the time of incident, the wires were only 1.5 ft. away from the hotel and the deceased had come in contact with the same resulting into electrocution and instantaneous death. Sonam Angrup, PW-5, on oath has stated that in July, 1997 not only the wire had loosened but even the pole had been damaged as the same had bent towards his hotel for which he had filed a complaint with the defendants. His statement corroborated by other also proves that the deceased had come in contact with the live wire, was electrocuted and died on the spot.

Surprisingly the defendants have not produced any record with regard to maintenance of their installed equipment but have only examined the Assistant lineman as their witness. He does not even support the case put forward by the defendants in their written statement. Consequently, they have failed to prove the pleas taken by them.

Based on the material on record, I am of the considered view that the defendants were negligent in maintaining their equipment i.e. electric pole and electric wires as they have not taken any precaution to either re-erect the pole which had bent towards the wall of the hotel or tighten the electric wires which had loosen and were just at a distance of 1 to 1.5 ft. from the wall of the hotel.

In the present case, it has also come on record that deceased was the only bread earner of the family, who died due to the various acts of negligence on the part of the officials/functionaries of the defendant-Board. The fact that he died due to electrocution is also proved. The plaintiffs, being widow and two minor children, aged 8 years and 6 years of the deceased, at the time of incident have no other source of livelihood.

The defendants are in the business of sett ing up and maintaining high voltage transmission lines through which the electric current of high voltage is transmitted. Such operations are certainly hazardous in nature and the defendants are required to take extra care and precaution as such operations can cause danger to life and property. The incident had taken place due to the acts of omission and commissions of the defendants. Sufficient evidence has come on record with regard to the negligence of the defendants. In the present case the incident is such as in the ordinary course of things it would not have happened if the defendants, who are maintaining the high voltage electric transmission lines had taken proper care. The defendants as already stated hereinabove have not come out with sufficient explanation or evidence to show what care they had taken.

The Court below has awarded a sum of Rs.1,26,000/- alongwith interest, which, in my view, is fair and reasonable.

In the facts and circumstances of the case, I do not find any illegality, infirmity or irregularity in the impugned judgment and decree. The appeal is dismissed. There shall be no order as to costs.

26th July, 2007
(C)

(Sanjay Karol),
Judge.